



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the
Board of Harbor Commissioners

DATE: MARCH 27, 2013

FROM: CONSTRUCTION

**SUBJECT: RESOLUTION NO. _____ -
AWARD AND APPROVAL OF CONSTRUCTION CONTRACT
CONTRACTOR: PIMA CORPORATION dba ADVANCED CONSTRUCTION
WILMINGTON MARINA PARKWAY
SPECIFICATION NO. 2744**

SUMMARY:

This contract is for the construction of landscape improvements along Anchorage Road and Shore Road as part of the China Shipping Aesthetic Mitigation Fund approved by the Board of Harbor Commissioners (Board) on July 16, 2009. The lowest responsive and responsible bidder is PIMA Corporation (PIMA), a Small Business Enterprise, located in Los Angeles, California. The contract amount of \$1,164,678, plus an approximate 9% contingency is \$1,265,563. The contract duration is 270 calendar days with 180 days for construction and 90 days for plant establishment.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that, in accordance with the City Charter Section 1022, work under the subject contract can be performed more feasibly by an independent contractor rather than by City employees;
2. Award and approve Specification No. 2744 for Item Nos. 1 through 13 of the proposal schedule to PIMA in the amount of \$1,164,678; that a 9% contingency, not included in the original contract amount, be applied for a total authorization of \$1,265,563; and authorize payment from the City of Los Angeles Harbor Department Construction Account. The contract time for performance of the work will be 270 calendar days from the Notice to Proceed;
3. Authorize the Executive Director to execute and the Board Secretary to attest to this contract for and on behalf of the Board;

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4. In accordance with City Charter Section 655 (g), delegate and authorize the Executive Director to adjust final bid quantities and accept the construction contract upon its completion; and
5. Adopt Resolution No. _____.

DISCUSSION:

Background and Context - On July 16, 2009, the Board of Harbor Commissioners allocated \$1,455,971 from the China Shipping Aesthetic Mitigation fund for the Wilmington Marina Parkway project. The Wilmington Boat Owners Association has proposed this 9-acre public parkway between the Anchorage Road Soil Storage Site and Anchorage Road and Shore Road, as well as an enhancement of the existing salt marsh adjacent to Shore Road. The project consists of creating a meandering concrete pathway along Anchorage Road and Shore Road, and landscape improvements installed along the path (Transmittal 3). The intent is to create an open space buffer between the marinas and the existing soil storage site. This project is compatible with the Wilmington Marinas/Anchorage Road Soil Storage Site Planning Study.

Work includes grading, concrete paving, asphalt resurfacing, installing a pervious concrete parking lot with 14 stalls, the installation of irrigation for vegetation, removing and replacing top soil, planting trees, shrubs and turf. The installation of benches, trash receptacles, signage, two gravel pavement access paths, decomposed granite, and other site improvements are included.

This project will be constructed in compliance with the City of Los Angeles Harbor Department's (Harbor Department) Small Business/Very Small Business Enterprise Program (SBE/VSBE). This contract is consistent with State of California Prevailing Wage provisions. The contract duration is 270 calendar days. Construction is anticipated to start in June 2013 and be completed in March 2014.

This construction contract requires specific experience and equipment to perform the work. This contract is also temporary in nature. As such, it is not feasible for the City of Los Angeles (City) to hire employees and purchase equipment to perform the work under this contract.

Construction Award Process - City of Los Angeles Charter Section 371 (a) - Competitive Bidding sets forth the procedure staff followed to award this contract. For construction contracts such as this one, the Harbor Department publishes the Notice Inviting Bids in daily newspapers and trade publications circulated in City of Los Angeles, as well as on

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the Port of Los Angeles website. The Harbor Department conducts a pre-bid conference and job walk to familiarize the prospective bidders with the jobsite and to answer questions related to the construction contract.

Following the submittal to the Harbor Department, the bids are publicly opened and the apparent lowest bidder is declared. Bid documents, SBE and VSBE participation, and other required documents are reviewed for compliance with Harbor Department requirements. Once all information is verified, and, if the lowest bidder is deemed responsive, recommendation for award of the construction contract is made. If the apparent low bidder is found non-responsive, the next lowest bidder is reviewed.

In conformance with the City Charter section for competitive bidding, as stated above, on January 8, 2013, the Notice of Inviting Bids for Specification No. 2744 was advertised on the Port of Los Angeles website, and in the LA Times, La Opinion, Rafu Shimpo, Metropolitan News, and Dodge Construction "Green Sheet" to reach out to as many potential bidders as possible.

As authorized by the Executive Director on December 21, 2012, the Chief Harbor Engineer received thirteen bids for the subject contract on February 21, 2013. The Analysis of Bids (Transmittal 1) lists the companies that submitted bids and their respective bid amounts. The bids received were opened, and PIMA was declared the apparent lowest bidder at the time of the bid opening with a bid of \$1,164,678.

PIMA's bid has been found responsive. An approximate 9% contingency is recommended based on a qualitative review of project specific risks, including schedule constraints and potential unforeseen conditions that may arise during construction, utility conflicts, and design and scope changes to accommodate field conditions for a total project cost of \$1,265,563.

After PIMA was determined by staff to be the lowest responsive bidder, KASA Corporation (KASA), the second lowest responsive bidder, submitted a bid protest on March 4, 2013. The bid protest requested that the Harbor Department deem PIMA's bid non-responsive and award the contract to KASA. In their protest, KASA claimed that PIMA failed to meet the mandatory 4% Very Small Business Enterprise participation requirement, and neglected to notarize the bid bond. KASA also suggested that PIMA would be unable to perform the scope of work at their bid amount. The Construction Division staff, in consultation with the City Attorney's Office, reviewed KASA's claim and deemed it to have no merit because: (1) the subcontractor listed in PIMA's bid was verified to be a VSBE, (2) the bid bond did not require notarization, and (3) the differential between bid amounts provides insufficient justification to declare PIMA

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nonresponsive or prove its inability to perform the work in accordance with the contract. Also, staff has confirmed the project reference provided by PIMA. A narrative of KASA's claim, along with staff's response, is attached as Transmittal 4.

Construction staff has verified PIMA's state license. In conformance with Section 10.8.4 of Ordinance No. 143429, certification is hereby made that PIMA has executed and filed an Affirmative Action Plan with their bid. A notification letter has been sent to the City Office of Contract Compliance as required in the ordinance.

The Harbor Department had set a minimum Small Business Enterprise (SBE) participation level of 22%, of which 4% shall be Very Small Business Enterprise (VSBE) participation. PIMA has provided the required documents regarding their SBE and VSBE participation. PIMA is an SBE, and, therefore, achieved an SBE participation of 100% (Transmittal 2).

This contract is consistent with State of California Prevailing Wage provisions. This contract is also subject to the local business preference ordinance adopted by the Board on April 5, 2012. However, since every bidder is local and qualifies for the preference, the ordinance does not affect the award.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a construction contract with PIMA for construction of landscaping improvements along Anchorage and Shore Roads as part of the China Shipping Aesthetic Mitigation Fund. As an activity involving minor alterations to existing facilities that involve negligible or no expansion of use beyond that previously existing and an activity involving minor alterations to land, including landscaping, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article III Class 1 (3) and 4 (3) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Funds for the current fiscal year have been budgeted in Account No. 21952, China Shipping Aesthetics Mitigation, Work Order No. 7934600, Center No. 7000, Program No. 663.

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Funds are expected to be expended as follows over the next two fiscal years:

Fiscal Year 2012/2013	\$ 250,000
<u>Fiscal Year 2013/2014</u>	<u>\$1,015,563</u>
Total	\$1,265,563

Funds for future fiscal years will be requested to be budgeted as part of the annual budget adoption process, upon Board approval. The overall China Shipping Aesthetic Mitigation program cost is approximately \$1,455,971, of which approximately \$190,408 has been expended and authorized for expenditure to date. Approval of this project will not increase the overall cost for the China Shipping Aesthetic Mitigation Program.

Although the contractor is not obligated to perform any work under the contract in any fiscal year in which no appropriation for the contract has been made, the contractor agrees to resume performance of the work required by the contract on the same terms and conditions for a period of 60 days after the end of the fiscal year if an appropriation is approved within that 60-day period. The Contractor is responsible for maintaining all insurance and bonds during this 60-day period. The time for performance shall be extended during this period until the appropriation is made; however, such extension of time is not compensable.

If, in any subsequent fiscal year, funds are not appropriated for work required by the contract, the contract shall be terminated. However, such termination shall not relieve the parties of liability for any obligation previously incurred.

The operation and maintenance of the improvements will be borne by the Construction and Maintenance Division at an annual cost of \$64,000.

ECONOMIC BENEFITS:

Spending under the proposed contract will support approximately 9 direct and 8 secondary one-year equivalent jobs for the five-county region.

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CITY ATTORNEY:

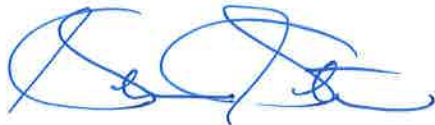
The Office of the City Attorney reviewed and approved Specification No. 2744 as to form and legality on September 13, 2012.

TRANSMITTALS:

1. Analysis of Bids
2. Contractor and Subcontractor List
3. Location Key Map
4. Letter from KASA Corporation and POLA Response

FIS Approval:  (initials)

CA Approval:  (initials)



SHAUN SHAHRESTANI
Chief Harbor Engineer
Construction Division



MICHAEL R. CHRISTENSEN
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director

PTN:lh
2744B01
ADP NO. 110921-121